HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No.9958 OF 2001

Dated 23-11-2005

Between :

Balagoni Rajaiah, son of Ramaiah, aged about 85 years, Occupation : Agriculture, resident of 1-49, Annojiguda village, Ghatkesar Mandal, Rangareddy District.

Petitioner.

And:

1. The Director, Survey Settlement & Land Records, 4th floor, Gaganvihar, M.J. Road, Hyderabad and others.

…Respondents.

ORDER :

The writ petition has been filed by Balagoni Rajaiah assailing the action of the Director, Survey, Settlement and Land Record in not effecting the correction in survey error as per the orders of the Collector (Land Record) vide proceedings No. G7/1261/87, dated 28-8-90 and 25-9-92.

2. The facts of the case in brief are :

The petitioner is the owner and possessor of agricultural land admeasuring Ac.16.2 guntas comprising survey Nos. 88,89,90,91 and 92. The Corresponding old survey numbers for the extent of Ac.16.28 are S.Nos.52 and 53 viz., Ac.1.28 guntas in S.No.52 and Ac.15.00 in S.No.53. In revision survey conducted in the year 1955, the extent has been wrongly shown as Ac.11.48 gunta. Consequently, a notice came to be issued to the petitioner by the Mandal Revenue Officer seeking eviction from the land admeasuring Ac.2.20 guntas comprising survey No.90. Thereupon, the

petitioner submitted representations for correction of survey error. His case came to be finally settled by the Revenue Divisional Officer, under order dated 30-12-1988. The relevant portion of the order passed by the Revenue Divisional Officer reads as follows :

> "A careful examination of the pahani for 1951 of Annojiguda reveals that the land in sy.Nos.52 and 53 known as Meeralavani Bavi measuring Ac.15-00 and 1-02 guntas respectively totaling Acs.16-02 guntas was recorded as patta. After the revision survey of 1955, as per the Wasool Baqui 3 sy. Nos. i.e., 88, 89 and 92 measuring Ac.1.09, 2-02 and 7-20 guntas respectively totallying Ac.11-11 guntas were shown to have been formed. Here it is seen that the total extent in the patta lands in sy.No.52 and 53 Mazi surprisingly got reduced by 4-31 guntas. It is further seen from the Wasool Baqui that the extent in sy.No.90 and 91 recorded as Government lands, which were shown to have been formed out of sy. No.117 and 118 increased to 5 acres 28 guntas from 4-03, after the revision survey.
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> In view of the foregoing facts, I hold that the eviction proceedings initiated by the Tahsildar, Hayathnagar against the appellant in file No.B2/1176/84 dated 16-7-1984 in respect of Acs.2-20 guntas in sy. No.90 and 91 of Annojiguda village are unwarranted, for the reason holding of the appellant before the revision survey being Ac.16-02 guntas got reduced to 11 acres 4 guntas while the extent of Government land in sy. No.90 and 91 increased from 4 acres 3 guntas to 5 acres 28 guntas.
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> Having regard to all these facts, I have no option except to allow the appeal of Sri. B.Rajaiah and others and to direct the Mandal Revenue Officer, Ghatkesar to drop the eviction proceedings till the orders are passed by the Joint Collector on the petition of the appellants herein for correction of the survey error U/s 87 of L.R. Act pending before the Joint Collector."

3. It appears that the Assistant Director of Joint Director, Survey, Settlement and Land Records, Collectorate, Khairatabad, Hyderabad-2nd respondent recommended for preparation of K.J.P. and Suppl.sethwar vide letter bearing No.G7/1261/87, dated : 28-8-1990. No action has been taken for preparation of K.J.P. and Suppl.sethwar . As the revenue authorities are threatening him to dispossess the petitioner, he has approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

4. The respondents 1 and 2 filed counter-affidavit. One M. Ram Reddy, Assistant Director of Survey and Land Records has sworn to the counter-affidavit. All the factual aspects have been admitted by the respondents in their counter-affidavit

except assailing that the error is not a clerical error and as the correction of the same would involve the interest of the Government.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents.

6. It is no more in dispute that the Revenue Divisional Officer after thorough enquiry recorded a finding that there is an error in the Revision Register and the same needs to be rectified and accordingly, sent the proposals. The Joint Collector also has come to the same conclusion and sent necessary proposals to the Assistant Director, Survey, Settlement & Land Records who in turn sought permission from the Director, Survey, Settlement & Land Records. It appears that the Special Commissioner & the Director, Survey, Settlement & Land Records has informed the Assistant Director, Survey, Settlement & Land Records that the correction sought for is not clerical error. The letter addressed to the Assistant Director, Survey, Settlement & Land Records-2nd respondent reads as follows:

> "With reference to your letter cited it is to inform that the case referred by you does not come under the purview of clerical error as the correction involves the interest of the Government."

7. Probably, the Assistant Director, in view of the opinion expressed by the Director of Survey, Settlement & Land Records, has not proceeded further with regard to the correction of survey error. When the Revenue Divisional Officer as well as the Joint Collector on thorough examination of the records placed before them recorded a finding that an error has been crept in while conducting re-survey and thereby the extent in S.Nos.52 and 53 have been reduced from Ac.16.2 guntas to Ac.11.4 guntas. Such is the finding recorded by the authorities, the involvement of interest of Government can be a ground to rectify the survey error.

8. Accordingly, the writ petition is allowed directing the 1st respondent to pass necessary orders basing on the recommendation made by the District Collector-3rd respondent within two months from the date of receipt of a copy of this order. It is further directed that the respondents shall not interfere with the possession of the petitioners in respect of the land in dispute pending proceedings before the 1st respondent with regard to the correction of survey error. No costs.

Justice B.SESHASAYANA REDDY

Date : 23-11-2005.

Note:

CC in one week.

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Dvs

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